

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:12-cv-000232-MR**

TIMOTHY McCARTHY,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
)	
BANK OF AMERICA, N.A., and)	
RONALD BERG,)	
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on Defendant Bank of America's Motion to Dismiss [Doc. 9].

The facts, legal issues, and causes of action asserted by the parties in the present matter are substantially similar to those in the case of Barnard, et al. v. SunTrust Bank, et al., No. 1:11-cv-00289-MR (W.D.N.C.), and the same attorneys appear on behalf of the Plaintiffs in each of these actions. Even though these cases have not been consolidated, the Order of this Court previously entered in Barnard addresses and disposes of all of the issues raised by the motion currently before the Court in this matter.

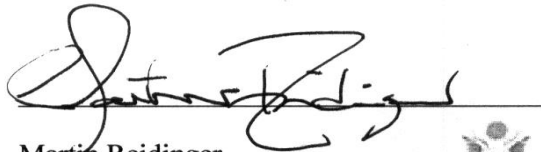
The Order in Barnard, therefore, is incorporated herein, and the current motion will be disposed of in accord therewith.

ORDER

IT IS, THEREFORE ORDERED that the Motion to Dismiss [Doc. 9] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, with respect to the Plaintiff's claim against Bank of America for negligent misrepresentation, the Motion to Dismiss [Doc. 9] is **GRANTED** and this claim is **DISMISSED**. In all other respects, the Bank's Motion to Dismiss [Doc. 9] is **DENIED**.

IT IS SO ORDERED.

Signed: September 30, 2013


Martin Reidinger
United States District Judge

